

1 John White, Esq.
 2 NV Bar Number 1741
 3 WHITE LAW CHARTERED
 4 335 West First St.
 5 Reno, NV, 89503
 6 775-322-8000
 7 775-322-1228 (Fax)
 8 john@whitelawchartered.com

E-filed July 12, 2013

6 UNITED STATES BANKRUPTCY COURT
 7 DISTRICT OF NEVADA

8 IN RE:

9
 10 PATRICK and PATRICIA
 11 McCauley,

12 Debtors

BK-N-13-50194-btb
 CHAPTER 12

JULY 12 DECLARATION OF
 PATRICK McCauley IN SUPPORT
 OF DEBTORS' OBJECTION TO THE
 CLAIM OF MILTON M.
 DAMBACHER, TRUSTEE OF THE
 DAMBACHER FAMILY TRUST
 DATED 4-29-87

Hearing Date: Sept. 24, 2013
 Hearing Time: 2:00 p.m.

I, Patrick McCauley, one of the Debtors in this case, declare, under pain and penalty of perjury, as follows:

1. In approximately 1991, my wife and I rented Claimant's farm, near Merced California, sometimes called the Bellevue farm. The farm had been in permanent pasture (not farmed) since approximately 1973. The farm had 320 acres, of which 240 was irrigated. It also had a farmhouse, a corral, a brood house and other miscellaneous improvements. The farm was subject to flooding every 10 years or so, had poor drainage in non-flood years and was in great need of general repair. When Debtors took it over some 20 acres was a swamp.
2. In 2004, Claimant and I formalized a lease whereby we would pay \$1250 per month for 300 acres, \$800 month for the farmhouse, utility buildings and equipment parking, and \$416 per month for the corrals and brooder house, being a

1 total rent of \$2,466.67 per month. See Exhibit 1 hereto, which exhibit, though
2 not signed, is in Milton Dambacher's handwriting. We paid that rent (\$2,466.67
3 per month) from March 7, 2007 through October, 2008.

4 3. By 2007, we had become indebted to claimant in the amount of approximately
5 \$157,261.90, all, or essentially all of which constituted back rent and interest
6 thereon. On March 7, 2007 (*Dambacher v McCauley*, CV 52556, Superior Court
7 of California) default judgment was entered against us in favor of Claimant in
8 that amount. We continued to rent the farm after the judgment was entered. We
9 vacated the 300 acres in October, 2008, the farmhouse in January, 2009 and by
10 July of 2009 we had removed all of our equipment.

11 4. Before and after the judgment, we had an agreement with Claimant that allowed
12 us to pay the back rent/judgment by doing work, primarily excavation work, on
13 the farm. The terms of that agreement, in effect after March 7, 2007 were based
14 upon our pre-judgment 9/16/05 agreement, a copy of which is attached hereto as
15 Exhibit 2.

16 5. We began work on this project promptly following entry of the March 7, 2007
17 judgment.

18 6. Oral amendments and changes to this agreement were regularly made as the
19 work progressed. Such changes included:

- 20 (a) New PG&E 200 amp electrical service on the house.
21 (b) Install new lights and some wiring in the house.
22 (c) Redo the bathroom floor and bathroom.
23 (d) Diesel fuel went from \$2.00 to \$3.84

24 7. In addition to the work, we paid rent current from the judgment date through
25 the time we left the farm in October, 2008 (\$52,000 in checks).

- 1 8. That we never accepted Gary Dambacher's October increase in rent, from \$2,466.67
2 per month to \$5,500 per month and instead of doing so, vacated the farm in Octo-
3 ber, 2008. We left on the premises valuable plumbing and other personality which
4 more than covered any rent due for the farmhouse through January, 2009 (\$800
5 per month for 3 months) and storing the equipment through July, 2009 (\$416 per
6 month for 8 months).
- 7 9. A schedule showing payments made is attached hereto as Exhibit 3 (Balance of
8 Judgment). This schedule accurately shows all work done and payments made
9 on the judgment, and correctly shows that the unpaid balance on the judgment
10 is now \$39,161.30.
- 11 10. That I am familiar with the additional excavation work done by AG Works, Ltd
12 after we left. That the excavation work which we did for Milton Dambacher in
13 2007 and 2008 was to cause the water to drain to the farthest corner of the ranch
14 to the Southwest and Southeast. That the AG Works excavation work was not
15 to "correct" what we did but rather to change the slope so the water would drain
16 back in to the farm to accomodate the desires of the new lessee. For Claimant
17 to attempt to charge us the \$73,432.50 he apparently paid AG Works because he
18 changed his mind concerning the drainage plan is unconscionable.
- 19 20. The fencing, now complained of by the new partnership in control of Claimant,
21 had been necessarily removed with Milton Dambacher's knowledge and consent,
22 to enable excavation to take place. We were not obligated to replace it and in
23 fact, since we left, much of the remaining fencing has been removed. Fencing
24 was important when the farm was pasture land, but is in the way of the present
25 crop-farming operation.
- 26 27. The money Claimant alleges to have been spent on corrals after we left was not to
28 correct anything we had done to the corrals, which were in good condition when

1 we left the farmhouse in January of 2009. The corrals were still intact when we
2 returned for our equipment in July, 2009.

3 13. The panels which Claimant refers to as "Powder River Panels" were not Powder
4 River Panels. They were made by another company in Liberty Kentucky and
5 were of an inferior grade. These panels (16') cost about \$77, while Powder River
6 Panels cost over \$200. We had delivered some of them to Dambacher's daughter
7 in Sonora before we left and we left the rest on the Merced farm. There were ap-
8 proximately 60 of these panels at the farm when we moved out of the farmhouse
9 in January, 2009. They were still there when we returned for our remaining
10 equipment in July of 2009.

11 14. That our work following the judgment took great time and expense, both in labor
12 and equipment. It greatly improved the Merced ranch.

14 Dated this 12th day of July, 2013

16 /s/ Patrick McCauley
17 Patrick McCauley

18
19
20
21
22
23
24
25
26
27
28

Index of Exhibits

Exhibit No.	Description	Number of pages
1	2004 Rent Agreement	2
2	2005 Projects Agreement	1
3	Balance of Judgment	2